

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Drug and Alcohol Requirements for the Workplaces of County Contractors and Grantees

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Purpose

To provide a policy to encourage County contractors who provide services to the County and grantees of County funds to have workplaces that are drug-free and free from alcohol abuse. This is to be accomplished by extending the provisions of the federal Drug-Free Workplace Act of 1988 to County contractors and grantees, and by imposing additional requirements aimed at encouraging contractors and grantees to provide a workplace free of alcohol abuse.

Background

Drug and alcohol abuse are among the most serious problems facing the United States, and all levels of government must take all available steps to solve these problems. In addition to making the County of San Diego a workplace that is drug-free and free of alcohol abuse, it is the desire of the Board of Supervisors to take steps to encourage County contractors and grantees to create workplaces that are drug-free and free of alcohol abuse. In furtherance of said goal, this policy is adopted to make the provisions of the federal Drug-Free Workplace Act of 1988 applicable to County contractors and grantees and impose an additional requirement for County contractors and grantees to provide a workplace free of alcohol abuse.

Definitions

For purposes of this policy the following terms shall have the following meanings:

- (a) Controlled substance means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812), and as further defined by regulation at 21 CFR 1300.11 through 1300.15 and controlled substances specified in sections 11053-11058 of the California Health and Safety Code;
- (b) Contractor means a person or entity that enters into a contract with the County to provide ongoing services having a duration of 30 days or more and the total compensation to the contractor provided for in the contract is \$25,000.00 or more. The term contractor does not include vendors of real or personal property.
- (c) Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of a criminal drug and alcohol statute or ordinance;
- (d) Criminal drug or alcohol statute or ordinance means a Federal or State criminal statute or local ordinance involving the manufacture, distribution, dispensing, use

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or possession of any controlled substance or alcoholic beverage;

- (e) Workplace that is drug-free and free of alcohol abuse means a site for the performance of work done in connection with a specific County contract or grant;
- (f) Employee means the employee of a contractor or grantee directly engaged in the performance of work pursuant to the provisions of the County contract or grant. Employee shall also mean an uncompensated volunteer engaged in such work; and
- (g) Grantee means a person or entity who receives financial assistance, including a cooperative agreement, in the form of money or property in lieu of money, from the County in the amount of \$25,000.00 or more.

Policy

1. Contractors or grantees shall not be awarded County contract or grants unless they certify that a workplace that is drug-free and free of alcohol abuse will be provided. The contractor or grantee shall certify a drug-free workplace and a workplace free of alcohol abuse by:

- (a) Publishing a statement notifying employees that:
 - (1) The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance or an alcoholic beverage is prohibited in the contractor's or grantee's workplace;
 - (2) Being under the influence of a controlled substance or alcohol at the workplace to the extent that proper performance of job duties is impaired is prohibited;
 - (3) Specified actions will be taken against employees for violation of such prohibitions.
- (b) Establishing a drug abuse and alcohol abuse awareness program to inform employees about--
 - (1) The dangers of drug and alcohol abuse in the workplace;
 - (2) The contractor's or grantee's policy of maintaining a workplace that is drug-free and free of alcohol abuse;
 - (3) Any available drug or alcohol counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug or alcohol abuse violations occurring in the workplace.
- (c) Making it a requirement that each employee to be engaged in the performance of the County contract or grant be given a copy of the statement required by paragraph (a);

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- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the County contract or grant, the employee will--
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer of any criminal drug or alcohol statute or ordinance conviction for a violation occurring in the workplace no later than five days after such conviction.
- (e) Notifying the County within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;
- (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is convicted--
 - (1) Taking appropriate personnel action against such an employee, up to and including the termination; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse or alcohol abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
- (g) Making a good faith effort to continue to maintain a workplace that is drug-free and free of alcohol abuse through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

2. A contractor or grantee shall be deemed in violation of this policy if the County's contract or grant administrator determines that:

- (a) The contractor or grantee has made a false certification;
- (b) The contractor or grantee has violated the certification by failing to carry out the requirements of paragraphs (a)-(g) of section 1 of this policy; and
- (c) Such a number of employees of the contractor or grantee have been convicted for violations of a criminal drug and alcohol statute or ordinance occurring in the workplace as to indicate that the contractor or grantee has failed to make a good faith effort to provide a workplace that is drug-free and free of alcohol abuse.

3. In the event of violation of this policy as provided in section 2, the contractor or grantee shall be subject to one or more of the following actions determined by the Board of Supervisors:

- (a) Suspension of payments under the grant;
- (b) Suspension or termination of the contract or grant;

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(c) Suspension or debarment of the contractor or grantee.

4. Upon issuance of any final decision requiring debarment of a contractor or grantee, the debarred contractor or grantee shall be ineligible for award of any County contract or grant for a period specified in the decision, not to exceed five years.

5. Exceptions

(a) This policy shall not be applicable to any County contractor or grantee having fewer than 15 employees directly engaged in the performance of work pursuant to the provisions of the County contract or grant.

(b) The Board of Supervisors may waive the requirements of this policy where it finds that special circumstances exist which warrant such waiver.

6. The contractor or grantee shall make the required certification for each County contract or grant.

7. Contractors and grantees are not required to provide a certification in order to continue receiving funds under a County contract or grant awarded prior to October 1, 1990.

8. This policy shall be implemented by requiring appropriate contract provisions or grant conditions to be included in any County contract or grant to which the policy is applicable.

Sunset Date

This policy will be reviewed for continuance by 12-31-12.

Board Action

8-14-90 (7)

12-5-95 (36)

03-14-06 (11)

CAO Reference

1.Chief Financial Officer/Auditor and Controller